

BILL # SB 1059

TITLE: trespass; critical public service facilities

SPONSOR: Tibshraeny

STATUS: Senate Engrossed

REQUESTED BY: House

PREPARED BY: Kim Hohman/Tony Vidale

FISCAL YEAR

2003

2004

2005

EXPENDITURES

General Fund

\$ -0-

Potential cost

FISCAL ANALYSIS

Description

The bill prohibits knowingly entering or remaining unlawfully in a critical public service facility and classifies the crime as a Class 6 Felony.

Estimated Impact

SB 1059 has a cost if it results in additional offenders being committed to a state correctional facility. However, the impact cannot be determined due to the inability to predict how many individuals would be prosecuted, convicted, and incarcerated as a result of this crime. If the number of persons committed to the Arizona Department of Corrections (ADC) due to this bill was low and could be accommodated by existing prison space, the marginal costs to ADC for each individual offender would be approximately \$3,500 per year. If the department's prison capacity could not handle the additional inmates and ADC were to contract for new private prison space, the annual cost would be approximately \$16,425 per inmate. In addition, local government agencies could be impacted from increased attorney costs, court costs, and if applicable, probation costs.

ADC did not provide a cost estimate of this bill.

The Maricopa County Attorney's Office believes any county attorney and court costs associated with this bill would be minimal.

Analysis

SB 1059 makes entering or remaining in a "critical public service facility" a Class 6 Felony. The bill defines "critical public service facility" as any structure or fenced yard used by: 1) a rail, bus, air, or other mass transit provider; 2) a public or private utility; 3) a municipal corporation; 4) a telecommunications carrier or telephone company; 5) a law enforcement agency; 6) a public or private fire department; or 7) an emergency medical service provider. Under current law, trespassing on any of these types of property is considered trespassing on a fenced commercial yard, which is a Class 2 Misdemeanor. According to the Phoenix City Prosecutor's Office, these types of trespassing cases are currently handled at the city level.

Since the bill establishes trespassing on these types of property as felonies and since felonies are handled at the county level, the bill is likely to increase the number of cases handled by county attorneys as well as the Superior Court. We are not able to determine a precise cost to county government since we do not have information on the number of current trespass cases that would be considered trespassing on a critical public service facility under the proposed legislation. Depending on the number of cases diverted from city court to Superior Court, the counties could experience increased attorney and court workload as a result of this bill. In addition, the cities could experience decreased attorney and court workload as a result of this bill. Any potential costs or savings to local government will depend on the number of offenses occurring in future years.

(Continued)

Analysis (Continued)

Once the county attorney has charged an individual with the trespassing offense described in the bill, the following outcomes are possible: 1) the charges could be dropped; 2) the county attorney could agree to prosecute the offense as a misdemeanor; 3) the individual could be sentenced to probation with or without jail as a term of the sentence; or 4) the individual could be sentenced to ADC. The costs to probation departments throughout the state would depend on the number of offenders sentenced to probation as a result of this bill, and whether the increased number of offenders would require additional probation officers. Since probation programs are funded from both county and state funds, the cost of any additional probation officers would be shared by both entities.

The costs to ADC would depend on the number of individuals committed to the department and the inmate classification profile. The JLBC Staff estimates an annual cost of \$3,500 per inmate and is based on the marginal cost for an additional inmate committed to the department. The marginal cost represents the cost of adding an inmate without increasing fixed expenditures, such as staff or facility size, and includes expenditures for food, healthcare, and utilities. Using the marginal cost assumes no increase in staff or facility size as a result of this bill. If the number of individuals committed exceeds the department's capacity, ADC could contract for new private prison space at an annual cost of approximately \$16,425 per inmate. This figure is based on a contract rate of \$45 per inmate per day.

Local Government Impact

The costs or savings associated with a change to attorney and court workload would be borne entirely by local government. The bill establishes certain trespass offenses as felonies and, therefore, may increase the number of cases handled by county attorneys as well as the county Superior Court. Since these offenses are currently charged as misdemeanors and handled at the city court level, it is possible that cities will experience decreased workload as a result of the bill. Since we do not have information on the number of cases diverted from city court to state court, we cannot determine a precise cost or savings estimate. The Maricopa County Attorney's Office believes any county attorney and court costs associated with this bill would be minimal.

3/21/03